

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. REA-2008-38
BOBBY PAUL ROBERTS,)	
License No. LRA-232,)	STIPULATION AND
)	CONSENT ORDER
Respondent.)	
_____)	

WHEREAS, information has been received by the Idaho State Board of Real Estate Appraisers (the “Board”) that constitutes sufficient grounds for the initiation of an administrative action against Bobby Paul Roberts (“Respondent”); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A. Stipulated Facts and Law

A.1. The Board regulates the practice of real estate appraising in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

A.2. The Board has issued License No. LRA-232 to Respondent. Respondent’s license is subject to the provisions of title 54, chapter 41, Idaho Code and the Board’s rules at IDAPA 24.18.01, *et seq.*

A.3. Appraisals in the State of Idaho must comply with the minimum standards set forth in the Uniform Standards of Professional Appraisal Practices (“USPAP”).

A.4. USPAP Standards require that any appraiser who signs a report prepared by another must accept full responsibility for the appraisal and report.

Count One

A.5. On or about November 10, 2002, Respondent prepared an appraisal report for property located at 448 East Highway 81 in Burley, Idaho (“Subject Property #1”).

A.6. Respondent's appraisal report and work file for Subject Property #1 failed to meet the following requirements of applicable USPAP Standards (2001):¹

a. Ethics Rule, Recordkeeping: The work file did not contain a copy of a previous appraisal report performed on the same property as of April 1999.

b. Evaluation Summary: The adjustments made in the direct sales comparison approach did not consider that the property was located across the street from a hazardous fuel storage facility nor that it was within 70 feet of a highway with a speed limit of 55 MPH.

Count Two

A.7. On or about October 21, 2003, Respondent signed as supervisory appraiser on an appraisal report for property located at 3396 South 1500 East in Wendell, Idaho ("Subject Property #2").

A.8. Respondent's appraisal report and work file for Subject Property #2 failed to meet the following requirements of applicable USPAP Standards (2002):²

a. Standards Rule 1-5: The report failed to include a prior listing and/or sale of the property on October 25, 2002.

b. Standards Rule 2-1(a): Respondent certified that he inspected the interior of the subject property. The homeowner informed the investigator that only one person came to the house, but could not remember his name. Respondent's work files show that Respondent's assistant inspected the interior of the property and does not show the Respondent inspected the interior. Respondent's certification that he inspected the interior of the subject property is misleading.

c. Evaluation Summary: The failure to identify that the report was for a sale and to provide details of the sale did not inform the reader what actually transpired.

¹ On November 10, 2002, the Board's adoption of the 2001 edition of USPAP was in effect. *See* IDAPA 24.18.01.004 (2002) (effective 3/13/02 to 5/2/03).

² On October 21, 2003, the Board's adoption of the 2002 edition of USPAP was in effect. *See* IDAPA 24.18.01.004 (2003) (effective 5/3/03 to 3/19/04).

Count Three

A.9. In approximately June 2005 Respondent received an appraisal order from a lender to prepare an appraisal for the property located at 4178 North 1200 East in Buhl, Idaho (“Subject Property #3”). In particular, the appraisal order stated:

This appraisal must be inspected and signed by the approved appraiser only. If an unauthorized trainees [*sic*] and/or unapproved appraisers complete the assignment, you will be requested to redo the appraisal or be subject to a reduced fee. If you are not willing to abide by this guideline, please call your customer service representative and decline the order.

A.10. Another appraiser in Respondent’s office, Don Ward, a licensed real estate appraiser who was not on the lender’s list of approved appraisers, inspected Subject Property #3. Respondent did not personally inspect the interior of Subject Property #3.

A.11. On or about June 28, 2005, Respondent signed the appraisal report for Subject Property #3.

A.12. Respondent’s appraisal report and work file for Subject Property #3 failed to meet the following requirements of applicable USPAP Standards (2005):³

a. Ethics Rule, Conduct: By accepting the assignment, Respondent agreed to abide by the lender’s guidelines. However, Respondent admitted that he never personally viewed the interior, and the report contained no extraordinary assumptions by Respondent that he did not view the interior but relied on Mr. Ward’s interior inspection.

b. Departure Rule: Respondent’s statement in the report that Mr. Ward assisted in preparing the report under Respondent’s supervision partially met the USPAP requirement “that the report clearly identify and explain departure(s) from the specific requirements.” Respondent should have included a description detailing Mr. Ward’s assistance.

c. Standards Rules 1-2(e)(i) and (iii) and (g), and 1-4(g): The sales agreement listed additional items specifically included in the sale (oven/range,

³ On June 28, 2005, the Board’s adoption of the 2005 edition of USPAP was in effect. See IDAPA 24.18.01.004 (2005) (effective 4/6/05 to 4/10/06).

refrigerator, W/C, F/C, 13 TFCC water shares, gated pipe, riding lawn mower) but these items were not mentioned in the report so the report was misleading whether these items were or were not included in value.

d. Standards Rules 1-5(a) and (b): There were two parcels included in the listing, two parcels included in the sales agreement and only one parcel in the appraisal, which was not explained in the report.

e. Standards Rule 2-1(a): Respondent certified that he personally inspected the interior of the subject property and the exterior of the comparables, but stated that he never personally viewed the interior of the subject and could not remember if he personally viewed any of the comparables (except comparable #2). Respondent also certified that he disclosed the specific tasks by any named individuals on whom he relied for professional assistance; however, the specific tasks performed by Mr. Ward were not disclosed in the report.

f. Evaluation Summary: Mr. Ward's assistance was noted but just how much and what he did does not appear.

Count Four

A.13. On or about November 19, 2005, Respondent prepared an appraisal report for property located at 1409 Hidden Lakes in Kimberly, Idaho ("Subject Property #4").

A.14. Respondent's appraisal report and work file for Subject Property #4 failed to meet the following requirements of applicable USPAP Standards (2005):⁴

a. Standards Rule 1-2(d): The effective date was reported as November 19, 2005, not the date prepared of November 23, 2004.

b. Standards Rule 2-1(a), (b) and (c): Respondent used only one verifiable sale, and the rest appeared to be construction completions.

⁴ On November 19, 2005, the Board's adoption of the 2005 edition of USPAP was in effect. See IDAPA 24.18.01.004 (2005) (effective 4/6/05 to 4/10/06).

c. Standards Rule 2-2: Respondent indicated that registered trainee Brian Kirkham assisted in the report but failed to identify the specific tasks performed by Mr. Kirkham.

A.15. Respondent denies the allegations described herein but admits that the facts alleged in Paragraphs A.5 through A.14, if proven, would violate the laws and rules governing the practice of real estate appraising, specifically Idaho Code § 54-4104(14) and 54-4107(1)(e) and IDAPA 24.18.01.700. Violations of these laws and rules constitute grounds for disciplinary action against Respondent's license to practice real estate appraising in the State of Idaho.

B. Waiver of Procedural Rights

I, Bobby Paul Roberts, by affixing my signature hereto, acknowledge that:

B.1. I have read, understand and acknowledge the allegations pending before the Board, as stated in Section A, Paragraphs A.5 through A.14. I further understand that these allegations constitute cause for disciplinary action upon my license to practice as a real estate appraiser in the State of Idaho.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraising in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

C. Stipulated Discipline

C.1. Respondent shall pay to the Board an administrative fine in the amount of Two Thousand Eight Hundred and No/100 Dollars (\$2,800.00) within six (6) months of the entry of the Board's Order.

C.2. Respondent shall pay investigative costs and attorney fees in the amount of Five Thousand Nine Hundred Twenty-Five and No/100 Dollars (\$5,925.00) within six (6) months of the entry of the Board's Order.

C.3. Within nine (9) months of the date of entry of the Board's Order, Respondent shall obtain the following continuing education from Board-approved providers:

- a. A 15-unit National USPAP course; **and**
- b. A 30-hour Residential Sales Comparison and Income Approaches course; **and**
- c. A 15-hour Advanced Residential Applications and Case Studies course.

Respondent shall submit proof of attendance to the Board within 30 days of attendance of each continuing education course. This continuing education shall be in addition to any continuing education Respondent is required to obtain to maintain his license.

C.4. Respondent's License No. LRA-232 shall be reinstated and placed on probation for a period of eighteen (18) months from the date of entry of the Board's Order. The conditions of probation are as follows:

- a. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of real estate appraising in the State of Idaho.
- b. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.
- c. If Respondent leaves Idaho for three (3) continuous months, or resides or practices outside of the state, Respondent must notify the Board in writing of

the dates of departure, address of intended residence or place of business, and whether Respondent intends to return. Periods of time spent outside Idaho will not apply to satisfy this probationary period or excuse compliance with the terms of this Stipulation.

d. Respondent shall fully cooperate with the Board and its agents, and shall make all relevant files, records, correspondence or other documents available immediately upon the demand of any member of the Board and its agents.

C.5. At the conclusion of the 18-month probationary period and provided Respondent has complied with all other terms of this Stipulation, Respondent may request from the Board termination of the conditions of probation. Any request for termination of probation must be accompanied by written proof of compliance with the terms of this Stipulation.

C.6. All costs associated with compliance with the terms of this Stipulation are the sole responsibility of Respondent.

C.7. The violation of any of the terms of this Stipulation by Respondent may warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D. Presentation of Stipulation to Board

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and

admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

E. Violation of Stipulation and Consent Order

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order. The Chief shall also serve notice of the hearing and charges to Respondent and to Respondent's attorney, if any. Within twenty-one (21) days after the notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

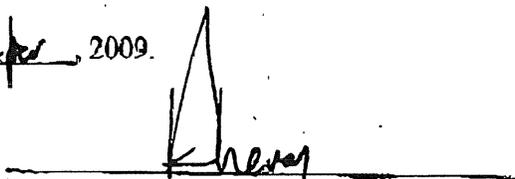
DATED this 7 day of September, 2009.



Bobby Paul Roberts
Respondent

Approved as to form.

DATED this 8th day of September, 2009.

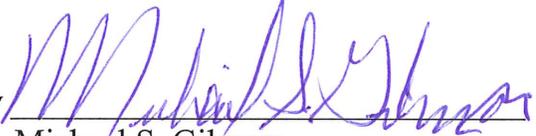


David H. Leroy
Attorney for Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 9th day of September, 2009.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By 
Michael S. Gilmore
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-4106(2)(h), the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 19th day of October, 2009. **IT IS SO ORDERED.**

IDAHO STATE BOARD
OF REAL ESTATE APPRAISERS

By 
RICK A. BACHMEIER, Chair


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of October, 2009, I caused to be served a true and correct copy of the foregoing by the following method to:

Bobby Paul Roberts
P.O. Box 5739
Twin Falls, ID 83303

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile: _____

Michael S. Gilmore
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile: _____
- Statehouse Mail

David Leroy
1130 East State Street
Boise, ID 83712

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile: _____


Tana Cory, Chief
Bureau of Occupational Licenses